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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,777	09/29/2003	Kevin Peck	032631-036	1055

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EXAMINER

KAPLAN, HAL IRA

ART UNIT	PAPER NUMBER
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2836

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/671,777

Applicant(s)

PECK ET AL.

Examiner

Hal I. Kaplan

Art Unit

2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003 and 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/29/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to under 37 CFR 1.71(a) because it does not contain a written description of Figures 1A, 1B, 2, 4, and 5. See MPEP §608.01(g). In addition, it is not clear to the examiner how to read Figures 1C-1G. For example, applicant states that Figure 1E shows that one half would receive the first half-cycle at twice the desired power, then would be off for the next three half-cycles. It is not clear how this follows from Figure 1E, as Figures 1A-1G do not show scales or other explanatory information. It appears from Figure 1E that one half receives the first half-cycle at twice the desired power, then is off for one half-cycle, then receives a half-cycle at the desired power, then is off for three half-cycles, then receives a half-cycle at twice the desired power.
2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification lacks antecedent basis for the phrases "power subsource" in claims 1 and 13-16 and "control circuit" in claim 13. The power subsources and control circuit both appear to be the SCRs/corrective circuits, but it is not clear as the specification and drawings do not disclose any additional devices in the circuit that could be considered power subsources or a control circuit.

### ***Drawings***

3. The drawings are objected to because Figures 2-5 appear to contain superfluous material which is not necessary for a complete understanding of the invention. The drawings must show every feature specified in the claims, but there should be no

Art Unit: 2836

superfluous illustrations. See MPEP §608.01(g). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

4. Claims 1 and 7 are objected to because of the following informalities: Claim 1, line 3 contains the phrase "electrical resistive power to a plurality of". It appears this should read "electrical power to a plurality of resistive". Claim 7, line 1 contains the phrase "number resistive". It appears this should read "number of resistive". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-16 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1 and 14 recite the limitation "the power provided to each of the plurality of load elements is equal to the power of the electrical power source". Claim 16 recites the limitation "the power provided to each of the plurality of heating elements is equal to the power from the power supply". It appears that only one of the heating/load elements can be powered on at any time because if more than one of the heating/load elements were on simultaneously, the power provided to each element would be approximately one-half the power from the power supply, however, this is not completely clear from the specification. Claims 2-13 and 15 inherit this deficiency.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2836

8. Claims 1, 2, 5, 8, 9, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by the US patent of Payne (4,634,843).

As to claims 1 and 14, Payne, drawn to a dual mode power control arrangement for cooking appliance, teaches, in Figure 5, a circuit to divide an electrical resistive load among a plurality of load elements in parallel, comprising: an electrical power source (L1,L2) for providing electrical power to a plurality of resistive load elements (12,14,16,18), wherein the plurality of load elements (12,14,16,18) are connected in parallel to each other (see column 14, lines 10-15); and a plurality of power splitters (82(A),82(B),82(C),82(D)) for dividing the electrical power source (L1,L2) into separate and equal power subsources such that there is one power splitter and one power subsource for each load element, wherein the power provided to each of the plurality of load elements (12,14,16,18) is equal to the power of the electrical power source (see column 14, lines 10-15 and 25-32).

As to claim 2, the electrical power source of Payne is an AC current at a nominal 120 volts (see column 14, lines 10-13).

As to claims 5 and 16, the plurality of elements of Payne comprise two or more heating elements (see column 4, lines 13-15).

As to claim 8, the number of resistive load elements in Payne is more than 2 (see column 4, lines 13-15 and Figure 5).

As to claim 9, the resistive load elements of Payne are fault tolerant such that if one or more of the resistive load elements fail, the remaining resistive load elements of

Art Unit: 2836

the plurality of resistive load elements can continue to operate (see column 14, lines 25-32).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2836

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Payne (4,634,843) in view of the US patent of Payne (5,293,028).

As to claim 3, Payne (4,634,843) teaches all of the claimed features, as set forth above, except for the electrical power source being an AC current at a nominal 220 volts. Payne (5,293,028), drawn to a cooktop appliance with improved power control, teaches, in Figure 4, a circuit to divide an electrical resistive load among a plurality of load elements in parallel, wherein the electrical power source is an AC current at a nominal 220 volts (see column 6, lines 16-19). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to build the circuit of Payne (4,634,843) to run on an AC current at a nominal 220 volts, as taught by Payne (5,293,028), because 220 volts AC is a common mains power supply voltage.

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Payne (4,634,843) in view of the US patent of Belson et al. (6,614,133).

As to claim 4, Payne teaches all of the claimed features, as set forth above, except for the electrical power source being a DC current. Belson, drawn to a power system with plural parallel power supplies with at least one power supply in standby mode for energy efficiency, teaches, in Figure 1, a circuit for dividing a DC electrical power source (100) into separate power subsources (104) connected in parallel. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to build the circuit of Payne to run on a DC current, as taught by Belson, because many devices and systems with which the circuit will interface run on a DC current.



Art Unit: 2836

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Payne (4,634,843) in view of the US patent of Eckert, Jr. et al. (4,377,739).

As to claim 6, Payne teaches all of the claimed features, as set forth above, except for each of the plurality of power splitters comprising a silicon control rectifier. Eckert, Jr., drawn to an average power control apparatus and method, teaches, in Figure 1, a power splitter comprising a silicon control rectifier for controlling power flow from an AC power source (104) to a heating element (106) (see column 5, lines 23-25 and column 13, lines 33-41). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use silicon control rectifiers (SCRs) appropriately connected, as taught by Eckert, Jr., instead of the triacs, in the circuit of Payne, because a triac is interchangeable with two appropriately connected SCRs.

15. Claims 7, 10, 12, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne (4,634,843) in view of the US patent of Seitz et al. (6,246,831).

As to claim 7, Payne teaches all of the claimed features, as set forth above, except for the number of resistive load elements being 2. Seitz, drawn to a fluid heating control system, teaches a circuit to divide an electrical load among a plurality of load elements in parallel, wherein the number of load elements is 2 (see column 34, lines 10-19). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use two resistive load elements in the circuit of Payne, because the principle of operation of the circuit is the same, regardless of the number of resistive load elements.

Art Unit: 2836

As to claims 10, 13, and 15, the power splitting in Seitz is performed according to an AC time proportional wave form (see column 34, lines 60-64; column 37, line 51 through column 39, line 9; Table 6; and Figures 1, 2, and 8).

As to claim 12, the circuit of Seitz includes an alarm circuit for activating an alarm when one of the components of the circuit becomes out of specification (see column 28, lines 44-51 and column 29, lines 2-21).

16. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Payne (4,634,843) in view of the US patent of Braun et al. (4,829,159).

As to claim 11, Payne teaches all of the claimed features, as set forth above, except for the power splitting being performed according to AC phase control. Braun, drawn to a method of optimizing control of plural switched electric loads to reduce switching transients, teaches, in Figures 1 and 2, a circuit to divide an electrical heating load among a plurality of load elements in parallel, wherein the power splitting is performed according to AC phase control (see column 5, lines 43-54 and column 5, line 63 through column 6, line 10). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to build the circuit of Payne so that the power splitting is performed according to AC phase control, as taught by Braun, in order to minimize the load variations that the mains is subjected to and therefore allow short clock periods.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patents to Forman (4,010,412), Payne et al. (4,282,422),

Art Unit: 2836


Raskin et al. (4,340,807), Payne et al. (4,633,067), and Welle, Jr. et al. (4,786,799) teach similar devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal I. Kaplan whose telephone number is 571-272-8587. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on 571-272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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